

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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| Lamont Cutner, |) | C/A No.: 6:12-cv-02807-GRA-KFM |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | ORDER |
| |) | (Written Opinion) |
| Interim Warden Fred Thompson, |) | |
| |) | |
| Respondent. |) | |
| |) | |

This matter is before the Court for review of United States Magistrate Judge Kevin F. McDonald's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(c) of the District of South Carolina, and filed on February 13, 2013. Petitioner Lamont Cutner ("Petitioner"), a prisoner currently incarcerated at Lee County Correctional Institution in Bishopville, South Carolina, brought this habeas corpus petition pursuant to 28 U.S.C. § 2254 on September 28, 2012. ECF No. 1. Petitioner filed a motion for default judgment on January 7, 2013, and the Magistrate Judge recommends that Petitioner's motion be denied. ECF Nos. 31 & 48.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* "The failure to file objections

to the report and recommendation waives any further right to appeal." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); see *Carter v. Pritchard*, 34 F. App'x 108, 108 (4th Cir. 2002) (per curiam). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). In this case, objections to the Report and Recommendation were due on March 4, 2013. Neither Petitioner nor Respondent has filed objections to the Report, and the time to object has passed.

After a review of the record, this Court finds that Magistrate Judge McDonald's Report and Recommendation accurately summarizes the case and the applicable law. Accordingly, for the reasons articulated by the Magistrate Judge, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Petitioner's Motion for Default Judgment is DENIED.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

March 13, 2013
Anderson, South Carolina